

NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 22, 1885. }

The Senate met pursuant to adjournment.
Lieutenant-Governor Gibbs in the chair.
Roll called.
Quorum present.
Prayer by the Chaplain.
On motion of Senator Houston of Wheeler,
The reading of the journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

By Senator Knittle:
Petition of city council of Brenham, asking the exemption of all volunteer firemen in active service from jury service.
Referred to Judiciary Committee No. 2.
By Senator Fowler:
Petition of the Colored Men's State Convention, held in Houston in August 1884.
Referred to Committee on State Affairs.

REPORTS OF STANDING COMMITTEES.

By Senator Davis:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 15, entitled "An act to repeal articles 547 and 548 of the Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 36, entitled "An act to amend article 145, chapter 1, title 6, Criminal Code State of Texas, relating to penalties for bribing and influencing electors," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 40, entitled "An act to amend article 317, chapter 3, title 9 of the Penal Code," have carefully examined the same, and instruct me to report the accompanying substitute therefor and recommend that such substitute do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

SUBSTITUTE.

Senate bill No. 40, "An act to amend article 317 of the Penal Code of the State of Texas."

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 43, entitled "An act to amend article 870 of the Code of Criminal Procedure, by adding thereto articles 870a and 870b," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 56, entitled "An act to amend article 726, chapter 9, Penal Code," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 86, entitled "An act to amend title 10, chapter 1 of the Code of Criminal Procedure of the State of Texas, by adding thereto articles 870a, 870b," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 87, entitled "An act to amend article 617, chapter 2, Code Criminal Procedure," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

Senator Bell offered the following minority report:

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

The undersigned members of your Judiciary Committee No. 2, to whom was referred Senate bill No. 86, entitled "An act to amend title 10, chapter 1 of the Code of Criminal Procedure, by adding thereto articles 870a and 870b," do not concur with a majority of said committee in reporting the bill unfavorably, and respectfully assign our reasons for dissenting from a majority of the committee. The proposed amendments provide that cases shall not be reversed by the Court of Appeals on account of any technical errors which may be committed in the trial court unless in the opinion of the Court of Appeals such error may have prejudiced the substantial rights of the defendants. The object of those who favor the amendments is not to prevent the Court of Appeals from considering or even to authorize them to disregard any error committed by the trial court which could have affected the jury in their findings, but simply to authorize them to decline to consider those technical errors and defects which compel the reversal of so many cases, when no error which could possibly have affected or changed the verdict of the jury has been committed. We therefore recommend that the bill do pass.

BELL, for the minority.

On motion of Senator Bell,
Senate bill No. 86, together with the majority and minority report, was ordered printed.

By Senator Bell:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

The undersigned members of your Judiciary Committee No. 2, to whom was referred Senate bill No. 56, entitled "An act to amend article 726, chapter 9 of the Penal Code," do not concur with a majority of said committee in reporting the bill unfavorably, and respectfully assign our reasons for dissenting from a majority of the committee.

The bill seeks to amend the law so as to make it theft for any one to fraudulently sell the property of another. Under the law, as it has been construed by the Court of Appeals, a party who has not had possession of personal property cannot be convicted, however fraudulently he may have acted. We think experience has here pointed out a defect in our laws in this respect, and that such defect should be cured by proper amendments.

We therefore recommend that the bill do pass.

BELL, for Minority of Committee.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 37, entitled "An act to amend article 536, title 8, chapter 3 of the Code of Criminal Procedure," have carefully examined the same, and instruct me to report the accompanying substitute for the same back, with the recommendation that it do pass.

All of which is respectfully submitted.

BELL, for the Committee.

By Senator Traylor:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Finance to whom was referred Senate bill No. 71, entitled "An act to transfer to the general revenue account certain funds now in the State Treasury to the credit of other accounts," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass, for the reason these funds have long been lying idle in the Treasury, and must continue so unless appropriated to some other use by legislative enactment.

All of which is respectfully submitted.

TRAYLOR, Chairman.

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Finance, to whom was referred Senate bill No. 70, entitled "An act to amend article 4682 of the Revised Civil Statutes of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

TRAYLOR, Chairman.

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your committee on Internal Improvements, to whom was referred Senate bill No. 83, entitled "An act to repeal sections 1, 2, 3, 4, 5 and 6, and to amend sections 7, 8, 9, 10 and 11, of an act entitled 'an act to further provide for the regulation of railroad and transportation lines in the State of Texas, and to provide for the creation of the office of, and appointment of, a State Engineer, and his secretary, and their salaries and duties, to prevent unjust discrimination and extortion in the rates charged for transportation of freight and passengers in this State, and to provide a mode of procedure in relation thereto,' approved April 10, 1883," have had the same under consideration, and have unanimously instructed me to report it back to the Senate and recommend its passage.

All of which is respectfully submitted.

SHANNON, Chairman.

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Internal Improvements, to whom was referred Senate bill No. 19, entitled "An act to amend and carry into effect article 4170, Revised Statutes of the State of Texas," have had the same under consideration, and instruct me to recommend the following amendment, and as so amended, to recommend its passage.

Respectfully,

SHANNON, Chairman.

AMENDMENT TO SENATE BILL NO. 19.

After the word "article," in twenty-fifth and twenty-sixth lines, strike out the following: "one-half to go to the informer and the other half to the State," and insert "recoverable in any court having jurisdiction of the amount involved, in a suit in the name of the county in which the cause of action accrued, one-half to go to the informer when recovered, and the other half to the road and bridge fund of such county. By 'the informer,' is meant the person making the affidavit of the facts, on which the county or resident district attorney, as the case may be, shall bring suit; and it shall be the duty of such county or district attorney, upon the making of such affidavit by any person, to at once institute against the company violating the provisions of this article, a suit in the

proper court to recover such penalty or penalties, and his failure or refusal to do so shall be sufficient cause for his removal from office. The proceedings under this article shall be conducted in the same manner as civil suits, and the county or district attorney attending to such suit shall be entitled to a fee, in each case, of twenty-five dollars, to be docketed as a part of the cost of the case; provided, that when two or more penalties are sought to be recovered in one and the same suit, but one such fee shall be allowed; and provided further, if the county be cast in the suit, no cost shall be charged against such county."

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Internal Improvements, to whom was referred Senate bill No. 45, entitled "An act to repeal an act entitled 'an act to further provide for the regulation of railroad and transportation lines in the State of Texas, and to provide for the creation of the office of and appointment of a State Engineer and his Secretary, and their salaries and duties, to prevent unjust discrimination and extortion in the rates charged for transportation of freight and passengers in this State, and to provide a mode of procedure in relation thereto,' approved April 10, 1883," have duly considered the same, and instruct me to say that having recommended the passage of Senate bill No. 83, which bill proposes to so amend the act which this bill proposes to repeal as to divest it of all (in the opinion of the committee) of its objectionable provisions, they are of opinion that this bill should lie on the table.

Respectfully submitted.

SHANNON, Chairman.

By Senator Perry:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Roads and Bridges, to whom was referred Senate bill No. 78, entitled "An act to authorize counties to issue bonds for bridge purposes, and to levy a tax to pay the same; also to validate bonds heretofore issued for bridge purposes," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass, with the following amendments.

All of which is respectfully submitted.

PERRY, Chairman.

COMMITTEE AMENDMENTS TO SENATE BILL NO. 78.

First amendment: Amend first section by inserting after the word "years" in the twelfth line, the words "redeemable after five years, at the option of the counties."

Second amendment: Amend section 2 by striking out the word "fifteen" in the third line, and insert in its stead the word "eight."

BILLS AND RESOLUTIONS.

By Senator Peacock:

A bill to further regulate the practice in the district, county and justice courts of the State of Texas.

Referred to Judiciary Committee No. 1.

By Senator Traylor:

A bill to provide for the issuance and sale of the bonds of the State to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds.

Referred to Finance Committee.

Senator Glasscock introduced the following:

Whereas, The delay in publishing bills introduced and the reports of committees has a tendency to retard the Senate in matters of legislation; therefore, be it

Resolved, That the Committee on Public Printing for the Senate be requested to ascertain the cause of delay in publishing bills introduced and reports of committees of the Senate on such bills introduced; and that said Committee on Public Printing be authorized to have such public printing done at the earliest time practicable.

Referred to Committee on Public Printing.

By Senator Hall:

"An act to repeal section 4 of 'an act defining who are officers of this State and prescribing their rights, powers, duties and privileges,' approved February 15, 1881."

Referred to Judiciary Committee No. 1.

By Senator Terrell:

A bill to amend chapter 6, title 26 of the Revised Statutes, adding article 103^{2a}.

Referred to Judiciary Committee No. 2.

By Senator Kleberg:

A bill to amend section 24 of "An act to redistrict the State into judicial districts and to fix the time for holding courts therein," approved April 8, 1883.

Referred to Committee on Judicial Districts.

On motion of Senator Houston of Bexar,

The Senate went into executive session.

IN SENATE.

On motion of Senator Houston of Bexar,

The result of the executive session was ordered spread upon the pages of the Senate journal, and the Governor be notified of such actions, as follows:

The Senate advises and consents to the appointment of Eugene Diggs as district attorney of thirtieth judicial district.

The Senate advises and consents to appointment of B. B. Hart as district attorney of the seventh judicial district.

The Senate advises and consents to the appointment of Joseph W. Baines as Secretary of State.

On motion of Senator Getzendaner,

Senator Farrar was excused for the day and remainder of the present week.

On motion of Senator Jones,

Senator Harrison was placed on Committee on Penitentiaries.

On motion of Senator Pfeuffer,

Senator Shannon was placed on Committee on Education.

On motion of Senator Glasscock,

Senator Jones was placed on Committee on Public Buildings and Grounds.

On motion of Senator Traylor,

Senator Bell was added to Finance Committee.

Senator Bell offered the following privileged report:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 26, being "An act to amend article 339, chapter 4, title 10 of the Penal Code," and find the same correctly engrossed.

BELL, Chairman.

By leave, Senator Stinson submitted the following minority report on Senate bill No. 42:

COMMITTEE ROOM,
AUSTIN, January 21, 1885.

Hon. Barnett Gibbs, President of the Senate:

We, a part of the Judiciary Committee No. 2, to whom was referred Senate bill No. 42, entitled "An act to amend chapter 3, title 17, of the Penal Code, by adding after article 684, articles 684a and 684b, a majority of whom, having reported the same back with a recommendation that it do not pass, we herewith submit a minority report, and ask that the same be adopted by the Senate in the place of the majority report.

Having examined the bill carefully, we are of the opinion that it makes an offense of a character of conduct that should

be punished by the laws of our State, and for which there is no penalty at present, wherefore we ask that the same do pass.

STINSON, for minority of committee.

On motion of Senator Evans,

Senator Shannon was added to Finance Committee.

Senator Houston of Bexar moved that the committees be declared filled.

After considerable discussion, and

The previous question being moved by Senator Getzendaner, which was seconded, and

The main question being ordered,

The motion was adopted by the following vote:

YEAS—19.

Calhoun,
Davis,
Evans,
Fowler,
Garrison,
Getzendaner,
Glasscock,

Hall,
Houston of Bexar,
Jones,
Kilgore,
Kleberg,
Knittle,

Peacock,
Perry,
Pfeuffer,
Randolph,
Shannon,
Woods.

NAYS—8.

Bell,
Camp,
Harrison,

Houston of Wheeler, Terrell,
Johnson, Traylor.
Stinson,

Senate bill No. 1, "An act to amend article 549, title 15, chapter 11, of the Penal Code," was taken up in its regular order and

Read third time and passed.

On motion of Senator Garrison,

Senator Pope was excused for the day.

Senate bill No. 16, "An act to amend article 44 of the Code of Criminal Procedure," was taken up in its regular order, on its third reading,

Read a third time and passed.

Senate bill No. 22, "An act to amend an act entitled 'an act to amend article 722, chapter 8, title 9, of the Penal Code of the State of Texas,' approved April 12, 1883," was taken up in its regular order, on its third reading,

Read third time and passed.

Senate Bill No. 26, "An act to amend article 339, chapter 4, title 10 of the Penal Code," was taken up on its regular order on its third reading,

Read third time and passed.

Senate Bill No. 8, "An act to amend chapter 2, article 566 of the Revised Civil Statutes, and to prohibit the formation and chartering of corporations for the purposes of purchasing lots or sub-dividing lands, and the sale and conveyance of the same," was taken up in its regular order,

Read second time with committee amendments, and

On motion of Senator Randolph, action was postponed and the bill made the special order for to-morrow after morning call.

Senate bill No. 17, "An act to give orders of sale foreclosing liens upon real estate the force and effect of writs of possession," was laid before the Senate on its second reading.

Read second time and ordered engrossed.

(Senator Shannon in the chair.)

Senate concurrent resolution No. 5, a joint resolution requesting our Senators and Representatives in Congress to urge the passage of the Eads bill, was taken up.

Senator Hall offered the following amendment:

Amend by adding to the resolution: "Provided, the appropriation for the improvement of the bar off Corpus Christi and Brazos Santiago be continued, and not impaired thereby."

Senator Terrell offered to amend the amendment by adding Sabine Pass.

Accepted.

Senator Houston of Bexar offered to amend by adding Aransas Pass.

Accepted.

Senator Houston of Wheeler offered to amend by adding mouth of the Brazos River.

Withdrawn, and

The amendment of Senator Hall, as amended, was lost.

Senator Terrell offered the following amendment:

Provided, That the ownership and control of the wharf and coast line of Galveston harbor, or such portion thereof as shall be sufficient for the use of all ships or vessels of every description that may pass through the Eads channel shall first be vested in the State of Texas; and, provided further, that not more than one-half of the amount appropriated shall be paid to the contractor or contractors until there is a depth of thirty feet of water over the bar.

After considerable discussion, Senator Houston of Bexar moved the previous question.

Motion seconded, and

The main question ordered, and

The amendment was lost by the following vote:

YEAS—9.

Calhoun,	Harrison,	Stinson,
Camp,	Houston of Bexar,	Terrell,
Hall,	Pfeuffer,	Woods.

NAYS—18.

Bell,	Glasscock,	Knittle,
Davis,	Houston of Wheeler,	Peacock,
Evans,	Johnson,	Perry,
Fowler,	Jones,	Randolph,
Garrison,	Kilgore,	Shannon,
Getzendaner,	Kleberg,	Traylor.

The resolution was adopted by the following vote:

YEAS—17.

Bell,	Glasscock,	Peacock,
Calhoun,	Houston of Wheeler,	Perry,
Davis,	Johnson,	Randolph,
Fowler,	Jones,	Shannon,
Garrison,	Kleberg,	Traylor.
Getzendaner,	Knittle,	

NAYS—9.

Camp,	Houston of Bexar,	Stinson,
Hall,	Kilgore,	Terrell,
Harrison,	Pfeuffer,	Woods.

ABSENT. NOT VOTING.

Evans, Douglass.

Senator Harrison gave the following reasons for voting against the resolution:

My reason for voting "no" on the adoption of the Eads resolution is because the resolution seeks to confine the Texas delegation at Washington to the Eads plan. I favor deep water at Galveston, but am unwilling to attempt to confine our delegation to any particular plan and cost when I do not understand that plan, and when others may arise equally as good and cheaper. I prefer to leave these matters to the discretion of the delegation, but would be willing to request them to obtain deep water upon the best and cheapest plan practicable.

HARRISON.

I concur in the views of Senator Harrison, and vote no.
HALL of Webb.

Senator Bell made the following privileged reports:

COMMITTEE ROOM,
AUSTIN, January 19, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 6, being "An act to diminish the civil and criminal jurisdiction of the county court of Montague county, and to conform the jurisdiction of the district court to such change," and find the same correctly engrossed.
BELL, Chairman.

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 34, being "An act to amend articles 730 and 731 of the Code of Criminal Procedure of the State of Texas," and find the same correctly engrossed.
All of which is respectfully submitted.

BELL, Chairman.

On motion of Senator Terrell,
The Senate adjourned to meet to-morrow morning at 10 o'clock.

TENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 23, 1885. }

The Senate met pursuant to adjournment.

Lieutenant-Governor Gibbs in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Kleberg,

The reading of the journal of yesterday was dispensed with.

REPORTS FROM STANDING COMMITTEES.

By Senator Houston of Bexar:

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 41, entitled "An act to repeal article 2430, chapter 4 of title 42 of an 'act to adopt and establish the Revised Civil Statutes of the State of Texas,'" have carefully examined the same, and a majority of the committee instruct me to report it back with the recommendation that it do not pass.
Respectfully submitted.

HOUSTON of Bexar, Chairman.

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 20, entitled "An act to amend chapter 2 of title 20 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of Texas,' which was presented to the Governor for his approval on the twenty-eighth of February, 1879, and became a law without his signature, and to add to said chapter articles 574a, 574b and 574c," have carefully examined the same, and a majority of said committee instruct me to report the same back to the Senate with the recommendation that it lie on the table.

Respectfully submitted.

HOUSTON of Bexar, Chairman.

COMMITTEE ROOM,
AUSTIN, January 22, 1885.

Hon. Barnett Gibbs, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred